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SERVICE DATE - JUNE 14, 2004

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-384 (Sub-No. 1X)**

**Delta Southern Railroad, Inc.—Abandonment Exemption—Between Lake Village, AR, and  
Shellburn, LA**

**BACKGROUND**

In this proceeding, Delta Southern Railroad, Inc. (DSR), filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon a 30-mile line of railroad, extending from Milepost 433.0, near Lake Village, AR, to Milepost 463.0, near Shellburn, LA. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, DSR will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

According to DSR, the line was constructed by the Missouri Pacific Railroad (MP) between 1907 and 1915, as part of a through route between McGehee, AR, and Talullah, LA, to serve the timber industry and the local agricultural community. In the early 1980's, MP merged with Union Pacific Railroad (UP) and UP operated the line until 1989, when the line was sold to Delta Southern Railroad Co., DSR's predecessor. In 1999, DSR purchased all of the assets and operations of Delta Southern Railroad Co. Since the acquisition, DSR has provided service over the line on a regular as-needed basis, typically one to two times per week.

According to DSR, the line runs south through a lightly populated, agricultural area. Except for one small hill near Eudora, the line has a fairly straight right-of-way and level contour, which is typical of railroad lines in this part of the country. DSR states that the width of the right-of-way is 50 feet from the centerline of track, and abandonment of the line would allow for the elimination of 10 public crossings and 8 private crossings. Additionally, there are 8 short railroad bridge structures on the line that are presumed to be more than 50 years old.

According to DSR, there is an embargo on the line due to poor track conditions and there has been no traffic on the line for at least two years. DSR further states that no local traffic has moved over the line for approximately seven years and there are no active customers on the line.

In recent years, the principle use of the line has been as a through route handling overhead traffic for shippers on contiguous segments of the Lake Providence Line. DSR states that the limited amount of overhead traffic has been limited to cotton and cotton seed. The line proposed for abandonment is the center segment of DSR's Lake Providence Line, and if the line is abandoned, DSR states that the Lake Providence Line will be severed. The northern segment will continue from Milepost 433.0 northwards to Milepost 409.7 at McGehee, AR, where it connects with the UP. The southern segment will continue from Milepost 463.0 southwards to Milepost 498.4, where it connects with Kansas City Southern Railroad (KCS) at Lake Tallulah, LA. Customers on the southern segment will lose their direct connection to UP, but DSR has made arrangements with the KCS to interchange that traffic with UP. Customers on the northern segment will continue to be able to interchange their traffic with UP but will lose the ability to connect with the KCS. However, DSR states that in the past 15 years, shippers on the northern segment have generally routed their traffic via UP rather than KCS. Accordingly, DSR states that overhead traffic can be rerouted and anticipates little or no diversion of traffic from rail to motor carrier transportation.

Upon receiving authority to abandon the line, DSR intends to preserve the underlying right-of-way as a trail under the National Trails Act, which would permit the railroad to restore through rail service in the future should the need arise.

## **ENVIRONMENTAL REVIEW**

DSR submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicant served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. SEA has reviewed and investigated the record in this proceeding.

The National Geodetic Survey (NGS) has advised SEA that 17 geodetic station markers have been identified that may be affected by the proposed abandonment.

DSR states that no in-stream salvage operations will be required. However, the U.S. Army Corps of Engineers (USACE) had not responded to the reports at the time this document was prepared. SEA recommends a consultation condition requiring that BNSF contact the USACE prior to commencement of any salvage activities, in order to determine whether a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would be required.

The Louisiana Department of Natural Resources, Office of Coastal Restoration and Management (LA DNR), reviewed the proposed project for consistency with the approved Louisiana Coastal Resources Program (LCRR) as required by Section 307 of the Coastal Zone

Management Act of 1972, as amended. LA DNR determined that: 1) the project is outside the Coastal Zone; 2) the project would have no significant effects on the Coastal Zone; and 3) the project is consistent with the LCRR. Accordingly, no mitigation measures were suggested.

The United States Department of Agriculture, Natural Resources Conservation Service - Lake Providence Field Office (NRCS), informed SEA that the proposed abandonment would not have any effect on NRCS's work in the immediate vicinity. Accordingly, the NRCS has no objection to the proposed project, and no mitigation measures were suggested.

The Louisiana Department of Transportation and Development reviewed the Environmental and Historic Report and submitted a letter stating that they have no comment.

DSR does not believe that the proposed abandonment would affect any wildlife sanctuaries, refuges, or National or State parks or forests.

According to DSR, there are no known hazardous waste sites or hazardous material spill sites on the subject right-of-way.

DSR states that the ROW is suitable for public use, specifically for use as a recreational trail. DSR intends to preserve the underlying right-of-way as a trail under the National Trails Act.

### **The 1995 Trails Act and the Board's Environmental Review**

The Trails Act, 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned. The Trails Act is intended to preserve railroad rights-of-way for future railroad use.

Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition (known as a Certificate of Interim Trails Use (CITU))<sup>1</sup> to begin the trail use process on a line approved for abandonment if the rail sponsor agrees to railbanking and provides a statement of willingness to assume responsibility for managing the right-of-way, for any legal liability arising out of its use, and for the payment of taxes. If the railroad agrees to negotiate, and no offer of financial assistance to continue rail freight service on the line is received, the Board imposes a NITU, which gives the rail sponsor time to negotiate an agreement with the railroad for interim trail use/railbanking. The Board has no involvement in the negotiations and does not analyze, approve, or set the terms of trail use agreements. The Board is not authorized to regulate activities over the actual trail. In short, the Board's jurisdiction under the Trails Act is ministerial.

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<sup>1</sup> This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned. In exempt abandonment procedures, it is a notice of interim trails use (NITU) that is issued rather than a CITU.

The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control so as to qualify as a major Federal action under NEPA. Only major actions by Federal agencies require environmental review.

## **HISTORIC REVIEW**

DSR submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Department of Arkansas Heritage, Arkansas Historic Preservation Program (the Arkansas State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). At the time this EA was prepared, the Arkansas SHPO had not completed its assessment of the Arkansas portion of the proposed abandonment. The Arkansas SHPO has requested additional information from DSR, including a 1:24,000 scale USGS topographic map that clearly delineates the project boundary. Pending completion of the Arkansas SHPO's review, we recommend a condition to ensure compliance with the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.]

DSR also served the report on the Office of Cultural Development, Division of Archaeology - Department of Culture, Recreation and Tourism (the Louisiana State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). The Louisiana SHPO has submitted comments stating that no known archaeological sites or historic properties will be affected by this undertaking. SEA has reviewed the report and the information provided by the Louisiana SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment will not affect historic properties located in Louisiana that are listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of DSR's historic report, all relevant correspondence, and this EA, which have been provided to the Louisiana SHPO and made available to the public.

## **CONDITIONS**

SEA recommends that the following three (3) environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified 17 geodetic station markers that may be affected by the proposed abandonment. Therefore, DSR shall notify NGS at least 90 days prior to salvage activities in order to plan for their relocation.
2. SEA recommends a consultation condition requiring that BNSF contact the U.S. Army Corps of Engineers' Galveston District, Fort Worth District, and Vicksburg District prior to commencement of any salvage activities, in order to determine whether a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would be required.

3. The Department of Arkansas Heritage, Arkansas Historic Preservation Program (the State Historic Preservation Office or SHPO), has requested information, including a 1:24,000 scale USGS topographic map that clearly delineates the project boundary. Accordingly, DSR shall retain its interest in and take no steps to alter the historic integrity of all sites and structures located on the Arkansas portion of the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.]

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to

the attention of Christa Dean, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-384 (Sub No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at [deanc@stb.dot.gov](mailto:deanc@stb.dot.gov).

Date made available to the public: June 14, 2004.

**Comment due date: June 29, 2004.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams

Secretary

Attachment

AB-384 (Sub-No. IX)

ID-34754

EXHIBIT  
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